

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

PAUL DAVIS,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 04-11851-WGY
v.	)	
	)	
SUFFOLK COUNTY AND	)	
ANDREA CABRAL	)	
(in her official capacity)	)	
	)	
Defendants.	)	

**PLAINTIFF'S RESPONSE TO DEFENDANTS' OPPOSITION TO MOTION TO  
EXTEND THE DEADLINES PURSUANT TO THE JOINT DISCOVERY PLAN FILED  
UNDER FED. R. CIV. P. 16(b) AND L.R. 16.1**

Now comes plaintiff in the above-captioned matter, PAUL DAVIS, and responds to defendants' opposition to plaintiff's request that the Court extend certain deadlines contained in the parties' joint discovery plan

Defendants have expressed concern that plaintiff's proposed revisions to the discovery schedule are not reasonable given the current schedule of the case. Plaintiff did not seek to have the trial date continued because counsel is aware of the Court's policy of maintaining a firm running trial list in civil cases. Plaintiff would, of course, be agreeable to continuing the trial date – particularly in light of the fact that the mediation before Judge Alexander is not scheduled to occur until November 15, 2005, and both parties believe that mediation may be helpful in this case.

In response to defendants' assertion that plaintiff's motion does not identify the identity of any specific person he wishes to depose, plaintiff states that counsel was aware, prior to plaintiff's

motion being filed, that plaintiff seeks to depose Assistant United States Attorney S. Theodore Merritt and Special Agent Maureen Robinson of the Federal Bureau of Investigation. Plaintiff served subpoenas on both these individuals today, as well as the appropriate Notices of Taking Depositions. Plaintiff may also wish to take additional depositions, most likely not to exceed three (3).

Defendant has also stated that plaintiff did not provide a reason why depositions could not have been taking during the period agreed upon in the Joint Discovery Plan, aside from the “general statement that counsel has been occupied with other criminal matters before the Court.” Specifically, both attorneys in the office has been engaged in preparing for the trial of United States v. Hart, et al., criminal number 02-10301-NG. That case has been ongoing since 2002 and is currently scheduled for trial on September 19, 2005. Additionally, counsel has been engaged in representing clients in the following cases which required preparation of documents necessary for sentencing: United States v. Rodriguez, 02-10113-RGS; United States v. G. Padilla, 05-10047-GAO; and United States v. Spirakis, et al., 03-10072-RCL. Finally, counsel has been engaged in several matters before the United States Court of Appeals for the First Circuit, including United States v. J. Padilla, 03-1918 (oral argument before the en banc panel occurred on June 6, 2005), United States v. Brandao, 05-1449 (brief due August 9, 2005), United States v. Green, 05-1014 / 05-1151, and United States v. Rooney, 05-1332. This list of engagements is not intended to be exhaustive; however, it is meant to demonstrate the other obligations which have prevented counsel in a small office from completing depositions within the previously scheduled deadline.

Additionally, defendants have expressed concern that the proposed revisions do not allow enough time for defendants to prepare a Motion for Summary Judgment, plaintiff to respond, and

the Court to rule<sup>1</sup>. As defendants have already filed a Motion to Dismiss, and as written discovery has been completed, there is nothing to prevent defendants from preparing a motion prior to the proposed deadline of October 14, 2005.

Finally, defendants indicate that they oppose plaintiff's motion as drafted, but would not object to plaintiff's motion should the court extend all current deadlines proportionately. Plaintiff would, of course, also not object to the Court extending all the deadlines proportionately.

Respectfully submitted,  
**PAUL DAVIS**  
By his attorneys,

/s Christie M. Charles

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Christie M. Charles (BBO # 646995)  
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**Dated:** July 14, 2005

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<sup>1</sup> Plaintiff did not seek to extend the deadline for making expert disclosures in an effort to comply with the January 26, 2005 Joint Discovery Plan when possible.